

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Patent Ext, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:

Date: March 28, 2005 Name: Jasper W. Dockrey, Reg. No. 33,868 Signature: Jasper W. Dockrey

BRINKS
HOFFER
GILSON
& LIONE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Pre Appln. of: MILANI et al.

Appln. No.: 09/609,016

Filed: June 30, 2000

For: FOOD SLICE CONSISTING OF TWO OR MORE FOOD ITEMS AND PROCESSES FOR MAKING AND PACKAGING SAME

Attorney Docket No: 115/575

Examiner: S. Weinstein

Art Unit: 1761

Mail Stop Patent Ext
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

TRANSMITTAL

Attached are:

- ☒ Request for Reconsideration of Patent Term Adjustment Pursuant to 37 C.F.R. § 1.705(b) (in duplicate) with attached Exhibits A, B and C.
- ☒ Return Receipt Postcard.

Fee calculation:

- ☐ No additional fee is required.
- ☐ Small Entity.
- ☐ An extension fee in an amount of \$___ for a ___-month extension of time under 37 C.F.R. § 1.136(a).
- ☐ A petition or processing fee in an amount of \$___ under 37 C.F.R. § 1.17(____).
- ☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus		0	x \$9=			x \$18=	
Indep.		Minus		0	x 43=			x \$86=	
First Presentation of Multiple Dep. Claim					+\$145=			+\$290=	
					Total	\$		Total	\$

Fee payment:

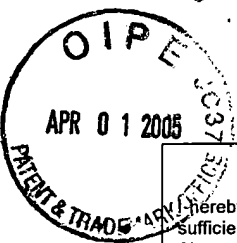
- ☐ A check in the amount of \$___ for the filing fee is enclosed.
- ☐ Please charge Deposit Account No. 23-1925 in the amount of \$____. A copy of this Transmittal is enclosed for this purpose.
- ☐ Payment by credit card in the amount of \$____ (Form PTO-2038 is attached).
- ☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

March 28, 2005

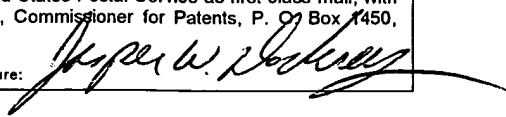
Date

Jasper W. Dockrey (Reg. No. 33,868)



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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Patent Ext, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on the below date:

Date: March 28, 2005 Name: Jasper W. Dockrey, Reg. No. 33,868 Signature: 

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: MILANI et al.
Appln. No.: 09/609,016
Filed: June 30, 2000
For: FOOD SLICE CONSISTING OF TWO OR MORE FOOD ITEMS AND PROCESSES FOR MAKING AND PACKAGING SAME
Attorney Docket No: 115/575

Examiner: S. Weinstein
Art Unit: 1761

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
PURSUANT TO 37 C.F.R. § 1.705(b)

Mail Stop Patent Ext
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

A notice of allowance was issued for the present application on **December 28, 2004** indicating that the issue fee is due on **March 28, 2004**. The issue fee is being submitted for the present application in conjunction with this request for reconsideration of the patent term adjustment. The the notice of allowance indicates a patent term adjustment calculated by the U.S. Patent office pursuant to 37 C.F.R. 1.701 to be **0** days. A copy of Notice of Allowance for the present application is included herewith as Exhibit A.

Applicants believe that the patent term adjustment should be **309** days. For the reasons stated herein, reconsideration of the patent term adjustment is respectfully requested pursuant to 37 C.F.R. 1.705(b). Please charge the petition fee pursuant to 37 C.F.R. § 1.18(e) to Deposit Account No. 23-1925. Please charge any additional fee

required or credit for any excess fee paid to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached.

The patent term adjustment for the present application was calculated by the U.S. Patent and Trademark Office. Applicants believe that errors may have resulted in an incorrect patent term adjustment for the present application as described in detail below. The present application is not subject to a terminal disclaimer.

Period of Adjustment Pursuant to 37 C.F.R. § 1.703

The present application was filed on **June 30, 2000**. The 14 month date specified in 37 C.F.R. § 1.703(a) is **August 30, 2001**. The first action on the merits by the U.S. Patent and Trademark office in the present application was a **first office action** mailed on **October 3, 2001**. Thus, applicants believe that the difference between the 14 month date and the date of mailing of the first action on merits should be **34 days**.

Period of Adjustment Pursuant to 37 C.F.R. § 1.703(a)(2)

The period of adjustment pursuant to 37 C.F.R. § 1.703(a)(2) is the number of days in the period beginning on the day ("the 4 month date") after that date that is four months after the date on which a reply was filed pursuant to 35 U.S.C. § 111 and ending on the date of mailing of either an action pursuant to 35 U.S.C. § 132, or a notice of allowance pursuant to 35 U.S.C. § 151, whichever comes first.

Based on the applicants' calculations shown in Exhibit B, the applicants assert that the total delay attributed to the United States Patent Office under 37 C.F.R. § 1.703(a)(2) is **111 days**.

Period of adjustment pursuant to 37 C.F.R. § 1.703(b)

The period of adjustment pursuant to 37 C.F.R. § 1.703(b) is the number of days in the period beginning on the day ("the 3 year date") after the date that is three years after the date on which the application was filed pursuant to 35 U.S.C. § 111(a) or fulfilled the requirements pursuant to 35 U.S.C. § 371.

The present application was filed on June 30, 2000 as evidenced by the filing receipt attached as Exhibit B. The 3 year date specified in 37 C.F.R. § 1.703(b) is June 30, 2003. The total amount of delay of both the U.S. Patent and Trademark Office and the Applicants is **267 + 111 = 378 days**, worksheet attached as Exhibit B. On the

date of receipt of the Applicants' RCE application, the present application is believed to have already exceeded the combined total of the 3 year date and the total amount of delay by **431** days (499 – 68 day concurrent delay). Applicants expect that additional non-overlapping delay can reasonably be expected prior to a patent issuing for the present application. Applicants therefore request re-computation of the period of adjustment pursuant to 37 C.F.R. § 1.703 upon identification of the date of issue of the patent of the present application to reflect this delay. With this request, applicants further reserve the right to request reconsideration of the patent term adjustment pursuant to 37 C.F.R. § 1.705(d) if the term of the issued patent is believed to be extended or adjusted incorrectly.

Reduction in Period of Adjustment pursuant to 37 C.F.R. § 1.704

Period of Adjustment Pursuant to 37 C.F.R. § 1.704(b)

Pursuant to 37 C.F.R. § 1.704(b), the period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date (the 3 month date) that is three months after the date of mailing or transmission of an Office communication notifying the applicant of a rejection, objection, etc., and ending on the date a corresponding reply was filed.

The total applicants' delay is shown on Exhibit B and is believed to be 267 days.

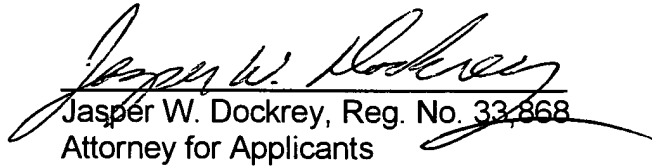
Total patent term adjustment

For the present application, the total patent term adjustment pursuant to 37 C.F.R. § 1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by any delays pursuant to 37 C.F.R. § 1.704. Thus, according to our calculations, we believe that the patent term adjustment should be **(431 + 34 + 111) days - (267 days) = 309 days**, instead of **0** days indicated on the Notice of Allowance attached as Exhibit A.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for the present application may not be correct. Accordingly, Applicants respectfully request the U.S. Patent and Trademark office to reconsider, and make any necessary revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark

Office in view of the above remarks. Office personnel are invited to contact the undersigned via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,

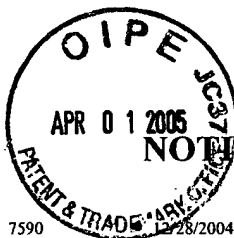

Jasper W. Dockrey, Reg. No. 33,868
Attorney for Applicants

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200



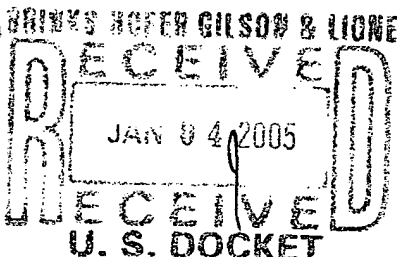
UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov



NOTICE OF ALLOWANCE AND FEE(S) DUE

7590
Jasper W. Dockrey
BRINKS HOFER GILSON & LIONE
NBC Tower - Suite 3600
455 Cityfront Plaza Drive
Chicago, IL 60611-5599



EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 12/28/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,016	06/30/2000	Franco X. Milani	3248	2127

TITLE OF INVENTION: FOOD SLICE CONSISTING OF TWO OR MORE FOOD ITEMS, AND PROCESSES FOR MAKING AND PACKAGING SAME

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$0	\$1400	03/28/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,016	12/28/2004	Franco X. Milani	3248	2127

7590

12/28/2004

Jasper W. Dockrey
BRINKS HOFER GILSON & LIONE
NBC Tower - Suite 3600
455 Cityfront Plaza Drive
Chicago, IL 60611-5599

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 12/28/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

PTO Office Action Delays Worksheet

		Add 4 Months To Response	Delay
A. First PTO Action (Does <u>not</u> include pre-examination processing papers, such as Notice of Missing Parts)	10/3/01		
Applicant Response	10/18/01	⇒ B 2/18/02	⇒ $\frac{0}{C-B}$
C. Second PTO Action	1/25/02		
Applicant Response	2/20/02	⇒ D 6/20/02	⇒ $\frac{43}{E-D}$
E. Third PTO Action	8/2/02		
Applicant Response	4/11/03	⇒ F 8/11/03	⇒ $\frac{0}{G-F}$
G. Fourth PTO Action	8/1/03		
Applicant Response	9/3/03 (via express mail)	⇒ H 1/3/04	⇒ $\frac{68}{I-H}$
I. Fifth PTO Action	3/11/04		
Applicant Response	9/13/04 (Notice of Appeal)	⇒ J N/A	⇒ $\frac{0}{K-J}$
K. Sixth PTO Action	N/A		
Applicant Response	11/10/04 (RCE)	⇒ L 3/10/05	⇒ $\frac{0}{M-L}$
Total Delay	12/28/04 (N/A)		

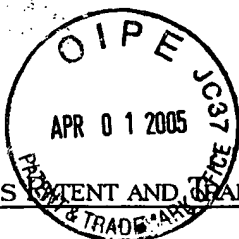
111

*(Note – does not apply to an IDS if filed with the USPTO within 30 days of receipt of references from foreign patent office and a statement is supplied that the art was filed w/in the 30 day period. Does not apply to supplemental papers requested by the USPTO)

Applicant Delay Worksheet

		3 Months From PTO Action	Delay
First PTO Action (This <u>does</u> include pre-examination processing papers, such as Notice of Missing Part. Does <u>not</u> include Notice of Omitted Items in Nonprovisional Application - Form PTO 1669)	9/1/00	A 12/1/00	
B. Response	10/30/00		<u>Ø</u> B-A
C. IDS or Supp Response*			<u>C-B</u> <u>Ø</u> E-D
Second PTO Action	10/3/01	D 1/3/02	
E. Response	10/18/01		
F. IDS or Supp Response*			<u>F-E</u> <u>Ø</u> H-G
Third PTO Action	1/25/02	G 4/25/02	
H. Response	2/20/02		
I. IDS or Supp Response*	3/5/02		<u>13</u> I-H <u>160</u> K-J
Fourth PTO Action	8/2/02	J 11/2/02	
K. Response	4/11/03		
L. IDS or Supp Response*			<u>L-K</u> <u>Ø</u> N-M
Fifth PTO Action	8/1/03	M 11/1/03	
N. Response	9/3/03 (via express mail)		
O. IDS or Supp Response*			<u>O-N</u> <u>94</u> Q-P
Sixth PTO Action	3/11/04	P 6/11/04	
Q. Response	9/13/04 (Notice of Appeal)		
R. IDS or Supp Response*			<u>R-Q</u> <u>Ø</u> T-S
Seventh PTO Action	Notice of Appeal date 9/13/04 N/A	S 12/13/04	
T. Response	11/10/04 (RCE)		
U. IDS or Supp Response*			<u>U-T</u> <u>267</u>
TOTAL	12/28/04 (NOA)		

*(Note - does not apply to an IDS if filed with the USPTO within 30 days of receipt of references from foreign patent office and a statement is supplied that the art was filed w/in the 30 day period. Does not apply to supplemental papers requested by the USPTO)



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/609,016	06/30/2000	1761	2050	3248	15	65	8

FILING RECEIPT



OC000000005561130

Michael P Mazza
Niro Scavone Haller & Niro
181 West Madison
Suite 4600
Chicago, IL 60602

Date Mailed: 11/16/2000

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the PTO processes the reply to the Notice, the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Franco X. Milani, Green Bay, WI ;
Susan C. Frinak, Green Bay, WI ;
Donn S. Theuerkauf, Appleton, WI ;
Francis J. Parker, Green Bay, WI ;
Robert L. Olsen, Tempe, AZ ;
Daniel P. Shannon, Green Bay, WI ;
David L. Shaft, Green Bay, WI ;

Continuing Data as Claimed by Applicant

Foreign Applications

If Required, Foreign Filing License Granted 08/31/2000

Title

Food slice consisting of two or more food items, and processes for making and packaging same

Preliminary Class

426